

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT IN
AND FOR ST. LUCIE COUNTY, FLORIDA

Case No.: 2016CA001406

GERALD R. PUMPHREY, as Personal
Representative of the ESTATE OF
TRYSTEN ELI FRANK ADAMS,

Plaintiff(s),

vs.

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES,
DEVEREUX COMMUNITY BASED
CARE, INC., and HIBISCUS
CHILDREN'S CENTER, INC.,

Defendant(s).

_____ /

PLAINTIFF'S AMENDED MOTION FOR LEAVE TO
FILE AN AMENDED COMPLAINT

COMES NOW Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS ("Plaintiff"), by and through undersigned counsel, and respectfully moves this Honorable Court for leave to file a proposed Third Amended Complaint, which is attached hereto as Exhibit "A," pursuant to Florida Rule of Civil Procedure 1.190(a), (c) and 1.250(c). In support thereof, Plaintiff states as follows:

FACTS AND PROCEDURAL HISTORY

This is a wrongful death action filed by the personal representative of Trysten Adams. On September 28, 2014, Trysten was murdered by one or both of Trysten's foster parents, Michael and Michelle Beer. In August of 2016, Plaintiff brought this lawsuit against the Florida Department of Children and Families ("DCF") and Devereux Community Based Care, Inc. ("Devereux"), who Plaintiff reasonably believed were the only entities responsible for negligently placing Trysten

with his foster parents in July of 2014.

In Plaintiff's Second Amended Complaint, filed in September of 2016, Plaintiff brought six counts of wrongful death under theories of negligence against DCF and Devereux. Specifically, Plaintiff asserted three claims of negligent placement, negligent supervision, and negligent training against DCF and Devereux as it relates to their placement of Trysten with his foster parents.

Just days after the applicable two-year statute of limitations ran in September of 2016, Plaintiff was first put on notice that there were additional parties who were responsible for placing Trysten with his foster parents. On September 30, 2016, Devereux filed its Answer and Affirmative Defenses to Plaintiff's Second Amended Complaint.¹ In its First Affirmative Defense, Devereux, *for the first time*, identified "Hibiscus Children's Center, United for Families, Inc. and Camelot Community Care as *Fabre* defendants."

Based on Devereux's recent disclosure, Plaintiff engaged in further investigation and discovery which culminated in the proposed Third Amended Complaint (Exhibit "A"). In this proposed Third Amended Complaint, Plaintiff asserts additional wrongful death claims against Camelot Community Care, Inc. ("Camelot"), United for Families, Inc. ("United") and Hibiscus Children's Center, Inc. ("Hibiscus"). *Id.* In particular, Plaintiff sets forth claims against Camelot for negligent placement, (Count VII), negligent supervision (Count VIII), and negligent training (Count IX). *Id.* Plaintiff added claims against United for negligent placement (Count X), negligent supervision (Count XI), and negligent training (Count XII) as well as claims against Hibiscus for negligent placement, (Count XIII), negligent supervision (Count XIV), and negligent training (Count XV). *Id.*

¹ This was the first Answer and Affirmative Defenses filed by either defendant.

ARGUMENT

Amendments to Pleadings

Florida Rule of Civil Procedure 1.190(a) provides that leave of court to amend a pleading “shall be given freely when justice so requires.” Fla. R. Civ. P. 1.190(a); *see also* Fla. R. Civ. P. 1.190(e) (“At any time in furtherance of justice, upon such terms as may be just, the court may permit any . . . pleading . . . to be amended . . .”). Florida Rule of Civil Procedure 1.250(c) specifically refers to the addition of parties to a case: “[p]arties may be added once as a matter of course within the same time that pleadings can be so amended under rule 1.190(a).” Fla. R. Civ. P. 1.250(c). Furthermore, “[p]arties may be added by order of court . . . on motion of any party at any stage of the action and on such terms as are just.” *Id.*

“Generally, Florida has a judicial policy of freely permitting amendments to the pleadings so that cases may be resolved on the merits, as long as the amendments do not prejudice or disadvantage the opposing party.” *Caduceus Props., LLC v. Graney*, 137 So. 3d 987, 991-92 (Fla. 2014). “[A]ll doubts should be resolved in favor of allowing amendment.” *Adams v. Knabb Turpentine Co.*, 435 So. 2d 944, 946 (Fla. 1st DCA 1983). The trial court abuses its discretion in refusing to permit an amendment “unless it clearly appears that allowing the amendment would prejudice the opposing party, the privilege to amend has been abused, or amendment would be futile.” *Kimball v. Publix Super Markets, Inc.*, 901 So. 2d 293, 296 (Fla. 2d DCA 2005).

The Relation-Back Doctrine

The relation-back doctrine under rule 1.190(c) provides in pertinent part: “When the claim . . . asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment shall relate back to the date of the original pleading.” Fla. R. Civ. P. 1.190(c).

The relation-back doctrine “is to be liberally construed and applied.” *Graney*, 137 So. 3d at 992; *see also Schwartz by & Through Schwartz v. Wilt Chamberlain's, Ltd.*, 725 So. 2d 451, 454 (Fla. 4th DCA 1999) (“It is well settled that the relation back rule is to be liberally construed.”).

As to the rule’s liberality, the Florida Supreme Court expressed:

Now the objective of all pleading is merely to provide a method for setting out the opposing contentions of the parties. No longer are we concerned with the “tricks and technicalities of the trade.” The trial of a lawsuit should be a sincere effort to arrive at the truth. It is no longer a game of chess in which the technique of the maneuver captures the prize.

Cabot v. Clearwater Constr. Co., 89 So. 2d 662, 664 (Fla. 1956).

“[A]n amendment adding a party plaintiff in a case which does not substantially change a cause of action may be made even after the statute of limitations has run.” *Roger Dean Chevrolet, Inc. v. Lashley*, 580 So. 2d 171, 172 (Fla. 4th DCA 1991). The addition of a party relates back where the new and former parties have an identity of interest which does not prejudice the opposing party. *Kozich v. Shahady*, 702 So. 2d 1289, 1291 (Fla. 4th DCA 1997). The relation-back doctrine is applicable where:

The newly added party had early knowledge of the litigation, that is to say, prior to the running of the Statute, and knew or should have known that the plaintiff had made a mistake or was guilty of a misnomer as concerns the correct identity of the defendant so that the added party was deemed to have suffered no prejudice by being tardily brought in or substituted as a party.

Michelin Reifenwerke, A.G. v. Roose, 462 So. 2d 54, 57 (Fla. 4th DCA 1984).

However, in *Graney*, the Florida Supreme Court rejected limiting the relation-back doctrine to cases involving “mistake or misnomer” because such limitation is contrary to the policy that the doctrine be liberally construed in addition to the policy underlying the rules of procedure that cases should be resolved on the merits. 137 So. 3d at 993.

This Case

The proposed Third Amended complaint relates back to the original pleading, which was filed before the statutes of limitations had run. Plaintiff's proposed Third Amended Complaint raises claims against Camelot, United and Hibiscus following Devereux's disclosure of their existence just days after the statute of limitations had run. Plaintiff adds wrongful death claims against Camelot, United and Hibiscus for negligent placement, negligent supervision, and negligent training.

Camelot, United and Hibiscus, in addition to DCF and Devereux, were responsible for placing Trysten with his foster parents. The original claims and the additional claims each involve the circumstances which led to the negligent placement of Trysten with his foster parents, where he was murdered. The wrongful death claims are not substantially changed because the new claims set forth the same claims brought in the original pleading, that is, negligent placement, training, and supervision. DCF, Devereux, Camelot, United and Hibiscus have an identity of interest as they were collectively responsible in negligently placing Trysten with his foster parents. Therefore, the additional claims brought against Camelot, United, and Hibiscus "arose out of the conduct, transaction, or occurrence" set forth in the original pleading, and thus, the amended complaint must relate back to the date of the original pleading. *See* Fla. R. Civ. P. 1.190(c).

There is no prejudice that can be demonstrated from the requested amendment. The Defendants knew all along, including prior to the statute of limitations date, that the entities were all responsible for the placement of Trysten with his foster parents—unlike Plaintiff, who first became aware of the additional parties through Devereux's disclosure shortly after the statute of limitations date. This lawsuit has been pending for only approximately four months. Discovery is ongoing and depositions have not been set. This case is clearly not so late in the proceeding that

the Defendants would be unfairly prejudiced by the amendment. Further, this amendment, which seeks justice by also holding Camelot, United, and Hibiscus responsible for their acts and/or omissions which led to the negligent placement of Trysten with his foster parents, is not an abuse of the privilege to amend, nor would the amendment be futile.

CONCLUSION

Based on the foregoing, justice requires that the Plaintiff be allowed to file his Third Amended Complaint. The additional claims raised against Camelot, United, and Hibiscus “arose out of the conduct, transaction, or occurrence” set forth in the original pleading. The amended complaint, therefore, must relate back to the date of the original pleading.

WHEREFORE Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, respectfully requests that this Honorable Court enter an order granting Plaintiff’s Motion for Leave to File an Amended Complaint.

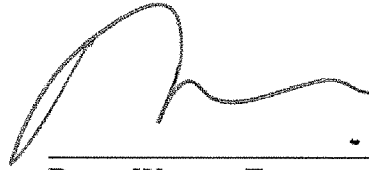
Respectfully submitted,



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*Counsel for Plaintiff Gerald R. Pumphrey, as
Personal Representative of the Estate of Trysten
Eli Frank Adams*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been e-filed and has been served by U.S. Mail to the Judge, and has been served by electronic mail upon counsel, on this 23rd day of January, 2016, as follows:

A handwritten signature in black ink, appearing to read 'Dante Weston', is written over a horizontal line.

Dante Weston, Esq.
Fla. Bar No. 62551

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT IN
AND FOR SAINT LUCIE COUNTY, FLORIDA

GERALD R. PUMPHREY, as Personal
Representative of the ESTATE OF TRYSTEN
ELI FRANK ADAMS,

CASE NO.: 2016CA001406

Plaintiff(s),

vs.

FLORIDA DEPARTMENT OF CHILDREN
AND FAMILIES, DEVEREUX COMMUNITY
BASED CARE, INC., CAMELOT
COMMUNITY CARE, INC., UNITED FOR
FAMILIES, and HIBISCUS CHILDREN'S
CENTER, INC.

Defendant(s).

_____ /

THIRD AMENDED COMPLAINT

COMES NOW, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, by and through the undersigned counsel and sues the Defendants, FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES (hereinafter referred to as "DCF"), DEVEREUX COMMUNITY BASED CARE, INC., CAMELOT COMMUNITY CARE, INC. (hereinafter referred to as "CAMELOT"), UNITED FOR FAMILIES, and HIBISCUS CHILDREN'S CENTER, INC., and in support thereof states as follows:

PARTIES AND JURISDICTION

1. That the instant action is for money damages in excess of Fifteen Thousand Dollars (\$15,000.00) and meets the jurisdictional limits of this court.

2. That at all times material hereto, decedent, TRYSTEN ELI FRANK ADAMS, was a minor, with residence in Saint Lucie County, Florida and is otherwise sui juris.

3. That, at all times material hereto, Plaintiff, GERALD R. PUMPHREY, has been

PLAINTIFF'S
EXHIBIT

A

appointed and is the Personal Representative of the Estate of Trysten Eli Frank Adams, deceased. The Estate was opened in St. Lucie County, Florida. (Attached as Exhibit "A" are the Letters of Administration).

4. That at all times material hereto, the following are the survivors and beneficiaries of a recovery for the wrongful death of TRYSTEN ELI FRANK ADAMS:

- a. Elisa Benedito, decedent's mother
- b. Hoyt Adams, decedent's father

5. That at all times material hereto, Defendant, DEVEREUX COMMUNITY BASED CARE, INC., was and is a Florida Corporation, and is authorized to do business in Saint Lucie County, Florida.

6. That at all times material hereto, Defendant, DCF, was and is a state government agency.

7. That at all times material hereto, Defendant, CAMELOT COMMUNITY CARE, INC. was and is a Florida Corporation, and is authorized to do business in Saint Lucie County, Florida.

8. That at all times material hereto, Defendant, UNITED FOR FAMILIES, INC., was and is a Florida Corporation, and is authorized to do business in Saint Lucie County, Florida.

9. That at all times material hereto, Defendant, HIBISCUS CHILDREN'S CENTER, INC., was and is a Florida Corporation, and is authorized to do business in Saint Lucie County, Florida.

10. That at all times material hereto, Michael Beer, was an individual, with residence in Saint Lucie County, Florida and is otherwise sui juris.

11. That at all times material hereto, Michelle Beer, was an individual, with residence in Saint Lucie County, Florida and is otherwise sui juris.

12. That at all times material hereto, all actions relevant hereto took place in Saint

Lucie County, Florida.

13. That TRYSTEN ADAMS was murdered by Michael and/or Michelle Beer on September 28, 2014 while TRYSTEN ADAMS was in the care and custody of the Defendants.

14. All conditions precedent, including notice required by §768.28, Fla. Stat., have been performed or waived.

COUNT I-WRONGFUL DEATH - NEGLIGENCE PLACEMENT
AGAINST DEFENDANT DCF

15. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

16. On or about July 29, 2014, Defendant, DCF, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

17. Defendant, DCF, owed a duty of reasonable care in providing a safe environment to TRYSTEN ADAMS.

18. Defendant, DCF, breached said duty by placing TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer when Michael and/or Michelle Beer beat TRYSTEN ADAMS to death.

19. Defendant, DCF knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in their care and custody.

20. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including

future pensions and retirement benefits.

21. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

22. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, DCF, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

COUNT II- WRONGFUL DEATH - NEGLIGENT SUPERVISION
AGAINST DEFENDANT DCF

23. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

24. On or about July 29, 2014, Defendant, DCF, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

25. Defendant, DCF, owed a duty of reasonable care in supervising Michael Beer and Michelle beer as foster parents.

26. Defendant, DCF, further owed a duty to TRYSTEN ADAMS in supervising the placement of TRYSTEN ADAMS.

27. Defendant, DCF, breached said duty by allowing continued placement of TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

28. Defendant, DCF knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps

to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

29. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

30. As a result, Elisa Benedito mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

31. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, DCF, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

COUNT III-NEGLIGENCE-WRONGFUL DEATH NEGLIGENT TRAINING
AGAINST DEFENDANT DCF

32. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

33. On or about July 29, 2014, Defendant, DCF, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

34. Defendant, DCF, owed a duty of reasonable care in training Michael Beer and Michelle beer as foster parents.

35. Defendant breached said duty by failing to adequately train Michael Beer and

Michelle beer as foster parents which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

36. Defendant, DCF knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

37. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

38. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

39. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, DCF, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

**COUNT IV-NEGLIGENCE-WRONGFUL DEATH - NEGLIGENT PLACEMENT
AGAINST DEFENDANT DEVEREUX COMMUNITY BASED CARE**

40. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

41. On or about July 29, 2014, Defendant, DEVEREUX COMMUNITY BASED

CARE, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

42. Defendant, DEVEREUX COMMUNITY BASED CARE, owed a duty of reasonable care in providing a safe environment to TRYSTEN ADAMS.

43. Defendant, DEVEREUX COMMUNITY BASED CARE, breached said duty by placing TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer when Michael and/or Michelle Beer beat TRYSTEN ADAMS to death.

44. Defendant, DEVEREUX COMMUNITY BASED CARE knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in their care and custody.

45. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

46. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

47. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, DEVEREUX COMMUNITY BASED CARE, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

COUNT V- NEGLIGENCE-WRONGFUL DEATH NEGLIGENCE SUPERVISION
AGAINST DEFENDANT DEVEREUX COMMUNITY BASED CARE

48. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

49. On or about July 29, 2014, Defendant, DEVEREUX COMMUNITY BASED CARE, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

50. Defendant, DEVEREUX COMMUNITY BASED CARE, owed a duty of reasonable care in supervising Michael Beer and Michelle beer as foster parents.

51. Defendant, DEVEREUX COMMUNITY BASED CARE, further owed a duty to TRYSTEN ADAMS in supervising the placement of TRYSTEN ADAMS.

52. Defendant breached said duty by allowing continued placement of TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

53. Defendant, DEVEREUX COMMUNITY BASED CARE knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

54. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including

future pensions and retirement benefits.

55. As a result, Elisa Benedito mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

56. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, DEVEREUX COMMUNITY BASED CARE, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

**COUNT VI-NEGLIGENCE-WRONGFUL DEATH NEGLIGENT TRAINING
AGAINST DEFENDANT DEVEREUX COMMUNITY BASED CARE**

57. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

58. On or about July 29, 2014, Defendant, DEVEREUX COMMUNITY BASED CARE, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

59. Defendant, DEVEREUX COMMUNITY BASED CARE, owed a duty of reasonable care in training Michael Beer and Michelle beer as foster parents.

60. Defendant breached said duty by failing to adequately train Michael Beer and Michelle beer as foster parents which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

61. Defendant, DEVEREUX COMMUNITY BASED CARE knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and

Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

62. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

63. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

64. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiffs, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, DEVEREUX COMMUNITY BASED CARE, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

**COUNT VII-WRONGFUL DEATH - NEGLIGENT PLACEMENT
AGAINST DEFENDANT CAMELOT COMMUNITY CARE, INC.**

65. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

66. On or about July 29, 2014, Defendant, CAMELOT, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

67. Defendant, CAMELOT, owed a duty of reasonable care in providing a safe environment to TRYSTEN ADAMS.

68. Defendant, CAMELOT, breached said duty by placing TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer when Michael and/or Michelle Beer beat TRYSTEN ADAMS to death.

69. Defendant, CAMELOT knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in their care and custody.

70. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

71. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

72. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, CAMELOT, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

COUNT VIII- WRONGFUL DEATH - NEGLIGENT SUPERVISION
AGAINST DEFENDANT CAMELOT COMMUNITY CARE, INC.

73. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

74. On or about July 29, 2014, Defendant, CAMELOT, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

75. Defendant, CAMELOT, owed a duty of reasonable care in supervising Michael

Beer and Michelle beer as foster parents.

76. Defendant, CAMELOT, further owed a duty to TRYSTEN ADAMS in supervising the placement of TRYSTEN ADAMS.

77. Defendant, CAMELOT, breached said duty by allowing continued placement of TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

78. Defendant, CAMELOT knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

79. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

80. As a result, Elisa Benedito mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

81. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, CAMELOT, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

COUNT IX-NEGLIGENCE-WRONGFUL DEATH NEGLIGENT TRAINING
AGAINST DEFENDANT CAMELOT COMMUNITY CARE, INC.

82. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

83. On or about July 29, 2014, Defendant, CAMELOT, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

84. Defendant, CAMELOT, owed a duty of reasonable care in training Michael Beer and Michelle beer as foster parents.

85. Defendant breached said duty by failing to adequately train Michael Beer and Michelle beer as foster parents which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

86. Defendant, CAMELOT knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

87. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

88. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

89. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, CAMELOT, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

**COUNT X-WRONGFUL DEATH - NEGLIGENT PLACEMENT
AGAINST DEFENDANT UNITED FOR FAMILIES, INC.**

90. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

91. On or about May 31, 2013 Defendant, UNITED FOR FAMILIES, licensed Michael Beer.

92. Defendant, UNITED FOR FAMILIES, failed to locate and/or investigate prior claims of abuse against Michael Beer.

93. As a result of the licensure of Michael Beer, the decedent, TRYSTEN ADAMS, was placed into the foster care of Michael Beer and Michelle Beer.

94. Defendant, UNITED FOR FAMILIES, owed a duty of reasonable care in providing a safe environment to TRYSTEN ADAMS.

95. Defendant, UNITED FOR FAMILIES, breached said duty by placing TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer when Michael and/or Michelle Beer beat TRYSTEN ADAMS to death.

96. Defendant, UNITED FOR FAMILIES knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a

foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in their care and custody.

97. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

98. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

99. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, UNITED FOR FAMILIES, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

COUNT XI- WRONGFUL DEATH - NEGLIGENT SUPERVISION
AGAINST DEFENDANT UNITED FOR FAMILIES, INC.

100. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

101. On or about July 29, 2014, Defendant, UNITED FOR FAMILIES, placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

102. Defendant, UNITED FOR FAMILIES, owed a duty of reasonable care in supervising Michael Beer and Michelle beer as foster parents.

103. Defendant, UNITED FOR FAMILIES, further owed a duty to TRYSTEN ADAMS in supervising the placement of TRYSTEN ADAMS.

104. Defendant, UNITED FOR FAMILIES, breached said duty by allowing continued

placement of TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

105. Defendant, UNITED FOR FAMILIES knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

106. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

107. As a result, Elisa Benedito mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

108. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, UNITED FOR FAMILIES, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

COUNT XII-NEGLIGENCE-WRONGFUL DEATH NEGLIGENT TRAINING
AGAINST DEFENDANT UNITED FOR FAMILIES, INC.

109. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

110. On or about July 29, 2014, Defendant, UNITED FOR FAMILIES, placed the

decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

111. Defendant, UNITED FOR FAMILIES, owed a duty of reasonable care in training Michael Beer and Michelle beer as foster parents.

112. Defendant breached said duty by failing to adequately train Michael Beer and Michelle beer as foster parents which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

113. Defendant, UNITED FOR FAMILIES knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

114. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

115. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

116. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, UNITED FOR FAMILIES, for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

**COUNT XIII-WRONGFUL DEATH - NEGLIGENT PLACEMENT
AGAINST DEFENDANT HIBISCUS CHILDREN'S CENTER, INC.**

117. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

118. On or about May 31, 2013 Defendant, HIBISCUS CHILDREN'S CENTER, INC., licensed Michael Beer.

119. Defendant, HIBISCUS CHILDREN'S CENTER, INC., failed to locate and/or investigate prior claims of abuse against Michael Beer.

120. As a result of the licensure of Michael Beer, the decedent, TRYSTEN ADAMS, was placed into the foster care of Michael Beer and Michelle Beer.

121. Defendant, HIBISCUS CHILDREN'S CENTER, INC., owed a duty of reasonable care in providing a safe environment to TRYSTEN ADAMS.

122. Defendant, HIBISCUS CHILDREN'S CENTER, INC., breached said duty by placing TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer when Michael and/or Michelle Beer beat TRYSTEN ADAMS to death.

123. Defendant, HIBISCUS CHILDREN'S CENTER, INC., knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in their care and custody.

124. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

125. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

126. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, HIBISCUS CHILDREN'S CENTER, INC., for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

COUNT XIV- WRONGFUL DEATH - NEGLIGENT SUPERVISION
AGAINST DEFENDANT HIBISCUS CHILDREN'S CENTER, INC.

127. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

128. On or about July 29, 2014, Defendant, HIBISCUS CHILDREN'S CENTER, INC., placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

129. Defendant, HIBISCUS CHILDREN'S CENTER, INC., owed a duty of reasonable care in supervising Michael Beer and Michelle beer as foster parents.

130. Defendant, HIBISCUS CHILDREN'S CENTER, INC., further owed a duty to TRYSTEN ADAMS in supervising the placement of TRYSTEN ADAMS.

131. Defendant, HIBISCUS CHILDREN'S CENTER, INC., breached said duty by allowing continued placement of TRYSTEN ADAMS in the care of Michael Beer and Michelle Beer which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

132. Defendant, HIBISCUS CHILDREN'S CENTER, INC., knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the

exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

133. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

134. As a result, Elisa Benedito mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

135. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, HIBISCUS CHILDREN'S CENTER, INC., for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

**COUNT XV-NEGLIGENCE-WRONGFUL DEATH NEGLIGENT TRAINING
AGAINST DEFENDANT UNITED FOR FAMILIES, INC.**

136. That Plaintiff re-alleges all those counts contained in paragraphs numbered 1 through 14 above as if they were fully incorporated herein.

137. On or about July 29, 2014, Defendant, HIBISCUS CHILDREN'S CENTER, INC., placed the decedent, TRYSTEN ADAMS, into the foster care of Michael Beer and Michelle Beer.

138. Defendant, HIBISCUS CHILDREN'S CENTER, INC., owed a duty of reasonable care in training Michael Beer and Michelle beer as foster parents.

139. Defendant breached said duty by failing to adequately train Michael Beer and

Michelle beer as foster parents which resulted in Michael Beer and/or Michelle Beer beating TRYSTEN ADAMS to death.

140. Defendant, HIBISCUS CHILDREN'S CENTER, INC., knew, or in the exercise of reasonable care, should have known the risk to TRYSTEN ADAMS, and others similarly situated and failed to take reasonable steps to guard against such risk when it knew, or in the exercise of reasonable care, should have known that placement with Michael Beer and Michelle Beer created a foreseeable likelihood of harm to TRYSTEN ADAMS or other foster children placed in his care and custody.

141. As a result, the Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, has incurred funeral burial expenses, medical expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits.

142. As a result, Elisa Benedito, mother of decedent, has lost present and future support and services, and has incurred pain and suffering.

143. As a result, Hoyt Adams, father of decedent, has lost present and future support and services and has incurred pain and suffering.

WHEREFORE, Plaintiff, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment against the Defendant, HIBISCUS CHILDREN'S CENTER, INC., for damages in excess of Fifteen thousand dollars \$15,000.00 plus costs incurred herein and any other relief as this Court deems fit and proper.

DEMAND FOR TRIAL BY JURY

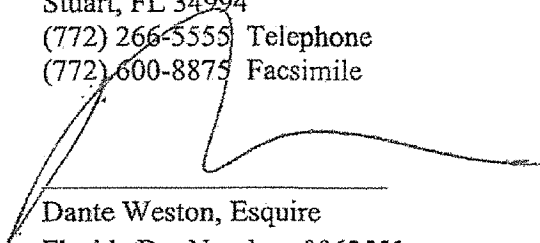
WHEREFORE, Plaintiffs, GERALD R. PUMPHREY, as Personal Representative of the ESTATE OF TRYSTEN ELI FRANK ADAMS, demand judgment for damages against Defendants, DCF, DEVEREUX COMMUNITY BASED CARE, INC., CAMELOT

COMMUNITY CARE, INC., UNITED FOR FAMILIES, INC., and HIBISCUS CHILDREN'S CENTER, INC., taxable costs, and trial by jury of all issues triable as a matter of right thereby.

CERTIFICATE OF SERVICE

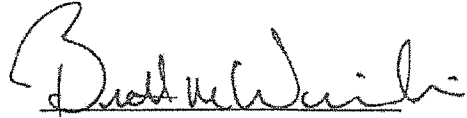
WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished this 23rd day of January, 2017 by e-service to: Anthony M. Iannacio, Esq., Bush, Gaziano, Rice & Platter, PA, 101 E. Kennedy Blvd., Suite 1700, Tampa, FL 33602, eserve@bgrplaw.com; tdomi@bgrplaw.com; Karen M. Nissen, Esq., Vernis & Bowling of Palm Beach, PA, 884 US Highway One, North Palm Beach, FL 33408, knissen@florida-law.com.

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